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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,551	12/11/2001	Alexander Kvache	01-8007	8115

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EXAMINER

ELAHEE, MD S

ART UNIT PAPER NUMBER

2645

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,551

Applicant(s)

KVACHE ET AL.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-11, 13-29 and 31-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11, 13-29 and 31-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/15/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed on 11/16/05. Claims 1-7, 9-11, 13-29 and 31-49 are pending. Claims 8, 12 and 30 have been cancelled.

Response to Arguments

2. Applicant's arguments filed on 11/16/05 have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7, 9-11, 13, 16, 17, 19-29, 31, 34, 35, 42 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlen (U.S. Patent No. 5,870,454) in view of Rodriguez et al. (U.S. Pub. No. 2002/0067806).

Regarding claims 1 and 20, Dahlen teaches receiving a message intended for the receiving party (col.6, lines 61-65).

However, Dahlen does not specifically teach “determining whether the message should be delivered to the receiving party”. Rodriguez teaches determining a priority for the message for the subscriber (abstract; page no.1, paragraphs 0012-0013, page no.2, paragraph 0028; ‘a priority for the message for the subscriber’ reads on the claim ‘whether the message should be delivered to the receiving party’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow determining whether the message should be delivered to the receiving party as taught by Rodriguez. The motivation for the modification is to have doing so in order to transmit the message to the intended recipient.

Dahlen further teaches translating the message from a source format to message text, wherein the translating includes translating one or more message attachments into attachment text (col.6, lines 5-32, col.7, lines 10-25).

Dahlen further teaches digital text message to an audible message (col.9, lines 17,18) and mobile radio device (fig.1, item 100E). However, Dahlen does not specifically teach converting the digital text message to an audible message when the message should be delivered to the receiving party. Rodriguez teaches converting the digital text message to an audible message when the message should be delivered to the recipient (page no.2, paragraph 0028; 'digital text message' reads on the claim 'message' and 'recipient' reads on the claim 'receiving party'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to incorporate converting the digital text message to an audible message when the message should be delivered to the receiving party as taught by Rodriguez. The motivation for the modification is to have doing so in order to deliver the message to the intended recipient in required format.

Dahlen further teaches determining a date or time at which the audible message should be delivered (col.7, lines 45-54, col.9, lines 61-67).

Dahlen further teaches initiating a telephony call to the receiving party at the determined date or time (col.7, line 45- col.8, line 29, lines 42-53, col.9, lines 61-67, col.10, lines 11-48).

Dahlen further teaches delivering the message audible message to the subscriber during the telephony call (col.8, lines 42-53, col.9, lines 61-67, col.10, lines 11-48).

Regarding claims 2 and 22, Dahlen teaches obtaining user profile data that identifies at least one criterion for when messages should be delivered to the receiving party (col.7, lines 45-54, col.9, lines 61-67).

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Regarding claims 3, 23 and 45, Dahlen teaches the user profile data including data identifying at least one of a message type (col.3, lines 34-47, col.4, lines 17-25, col.7, lines 45-54, col.9, lines 61-67).

Regarding claims 4 and 24, Dahlen teaches testing the message against the user profile data (col.7, lines 45-54).

However, Dahlen does not specifically teach “determining that the message should be delivered when the message passes the test”. Rodriguez teaches determining that the message should be forwarded when the decision is made regarding forwarding address (page no.4, paragraphs 0037-0041; ‘forwarded’ reads on the claim ‘delivered’ and ‘the decision is made regarding forwarding address’ reads on the claim ‘the message passes the test’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow determining that the message should be delivered when the message passes the test as taught by Rodriguez. The motivation for the modification is to have doing so in order to deliver the message to the intended recipient after checking the subscriber’s preference.

Regarding claims 5-7, 25-27, 46 and 47, Dahlen does not specifically teach monitoring a message server for arrival of new messages intended for the receiving party, wherein monitoring a message server includes periodically checking the message server for new messages and receiving a notification from the message server whenever a new message arrives. Rodriguez teaches monitoring a message server for arrival of new messages intended for the receiving party, wherein monitoring a message server includes periodically checking the message server for new messages and receiving a notification from the message server whenever a new message arrives (fig.1B; page no.2, paragraph 0027). Thus, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to modify Dahlen to incorporate monitoring a message server for arrival of new messages intended for the receiving party, wherein monitoring a message server includes periodically checking the message server for new messages and receiving a notification from the message server whenever a new message arrives as taught by Rodriguez. The motivation for the modification is to have doing so in order to deliver notification for an urgent message to an intended recipient.

Regarding claim 9 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Dahlen teaches a text-to-speech translator (fig.1, item 80).

Regarding claims 10 and 28, Dahlen teaches creating an envelope from at least one of a From, To, Subject, or Date header field corresponding to the message (col.6, lines 51-60, col.7, line 45-47).

Regarding claims 11 and 29, Dahlen fails to teach “translating the message text and the envelope into an audible message”. Rodriguez teaches translating the digital text message to an audible message (page no.2, paragraph 0028, page no.4, paragraphs 0036; ‘digital text message’ reads on the claim ‘the message text and the envelope’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow translating the message text and the envelope into an audible message as taught by Rodriguez. The motivation for the modification is to have doing so in order to deliver a message in a format compatible to an intended recipient.

Regarding claims 13 and 31, Dahlen teaches translating the message text and attachment text to an audible message (col.10, lines 1-17).

Regarding claim 16, Dahlen fails to teach “determining whether the telephony call reaches the receiving party”. Rodriguez teaches determining whether the recipient is available (page no.2-3, paragraphs 0028-0029; ‘the recipient is available’ reads on the claim ‘telephony call reaches the receiving party’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow determining whether the telephony call reaches the receiving party as taught by Rodriguez. The motivation for the modification is to have doing so in order to provide the indication whether the recipient is available.

Dahlen further fails to teach “retrying the telephony call a predetermined number of times if the telephony call fails to reach the receiving party”. Rodriguez teaches attempting to contact the recipient again if the recipient is unavailable for a period of time to elapse (page no.2-3, paragraph 0029; ‘attempting to contact the recipient again’ reads on the claim ‘retrying the telephony call a predetermined number of times’ and ‘the recipient is unavailable for a period of time to elapse’ reads on the claim ‘the telephony call fails to reach the receiving party’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow retrying the telephony call a predetermined number of times if the telephony call fails to reach the receiving party as taught by Rodriguez. The motivation for the modification is to have doing so in order to make several attempts to contact the subscriber.

Regarding claims 17 and 35 are rejected for the same reasons as discussed above with respect to claim 16. Furthermore, Dahlen fails to teach “initiating a second telephony call to an alternate telephone number if the telephony call fails to reach the receiving party”. Rodriguez teaches attempting to contact the recipient again if the recipient is unavailable for a period of time to elapse (abstract; page no.2-3, paragraph 0029; ‘attempting to contact the recipient again’

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reads on the claim 'initiating a second telephony call to an alternate telephone number' and 'the recipient is unavailable for a period of time to elapse' reads on the claim 'the telephony call fails to reach the receiving party'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow initiating a second telephony call to an alternate telephone number if the telephony call fails to reach the receiving party as taught by Rodriguez. The motivation for the modification is to have doing so in order to make alternate routing to contact the subscriber.

Regarding claim 19 is rejected for the same reasons as discussed above with respect to claims 1, 2 and 4.

Regarding claims 21, Dahlen teaches that the target format is a text format (col.6, lines 5-32, col.7, lines 10-25).

Regarding claim 34 is rejected for the same reasons as discussed above with respect to claims 16 and 17.

Regarding claim 42 is rejected for the same reasons as discussed above with respect to claims 1 and 5. Furthermore, Dahlen teaches prior to monitoring messages, interacting with a user to generate a user profile that identifies at least one message criterion that indicates when the messages should be delivered to the user (col.6, lines 51-65).

7. Claims 14, 15, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlen (U.S. Patent No. 5,870,454) in view of Rodriguez et al. (U.S. Pub. No. 2002/0067806) further in view of Tullis et al. (U.S. Patent No. 5,802,314).

Regarding claims 14 and 32, Dahlen in view of Rodriguez fails to teach "generating a description of the one or more message attachments when the one or more message attachments

are not convertible into text". Tullis teaches generating a description of the one or more file attachments when the one or more file attachments are not convertible into the text (col.20, lines 30-45; 'file attachments' reads on the claim 'message attachments'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen in view of Rodriguez to allow generating a description of the one or more message attachments when the one or more message attachments are not convertible into text as taught by Tullis. The motivation for the modification is to have doing so in order to deliver the description of unconvertible message.

Regarding claims 15 and 33 are rejected for the same reasons as discussed above with respect to claim 13. Furthermore, translating the generated description into the audible format (col.10, lines 11-17).

8. Claims 18, 36, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlen (U.S. Patent No. 5,870,454) in view of Rodriguez et al. (U.S. Pub. No. 2002/0067806) further in view of Fortman et al. (U.S. Patent No. 5,987,100).

Regarding claims 18 and 36 are rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Dahlen teaches authenticating the calling party based on at least one of a user identifier, a personal identification number, or a password and delivering message to a called party (fig.2A, item 234; col.4, lines 26-39, col.5, lines 40-44, col.8, lines 42-53, col.9, lines 61-67, col.10, lines 11-48).

However, Dahlen in view of Rodriguez does not specifically teach authenticating the receiving party based on at least one of a user identifier, a personal identification number, or a password and transmitting the audible message to the receiving party after successful

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authentication of the receiving party. Fortman teaches checking [i.e., authenticating] the subscriber [i.e., receiving party] based on the identity [i.e., at least one of a user identifier, a personal identification number, or a password] and notifying [i.e., transmitting the audible message] the subscriber after successful authentication of the subscriber (col.8, lines 33-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen in view of Rodriguez to incorporate authenticating the receiving party based on at least one of a user identifier, a personal identification number, or a password as well as transmitting the audible message to the receiving party after successful authentication of the receiving party as taught by Fortman. The motivation for the modification is to have doing so in order to validate the identity of a particular user and deliver a particular message to the authenticated user.

Regarding claim 43 is rejected for the same reasons as discussed above with respect to claim 18. Furthermore, Dahlen in view of Rodriguez does not specifically teach validating the user identification and password data with the message server. Fortman teaches checking [i.e., validating] the subscriber identity [i.e., user identification and password data] with the mailbox [i.e., message server] (col.8, lines 31-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen in view of Rodriguez to incorporate validating the user identification and password data with the message server as taught by Fortman. The motivation for the modification is to have doing so in order to authenticate the identity of a particular user to deliver a particular message from a message storage.

Regarding claim 44, Dahlen does not specifically teach “determining whether the logon is successful”. Rodriguez teaches determining if the correct code is entered (page no.3, paragraph 0033; ‘if the correct code is entered’ reads on the claim ‘whether the logon is successful’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow determining whether the logon is successful as taught by Rodriguez. The motivation for the modification is to have doing so in order to determine the subscriber of the mailbox.

Dahlen in view of Rodriguez further does not specifically teach attempting to logon to the message server using the user identification and password data. Fortman teaches attempting to logon to the mailbox using the subscriber identity (col.8, lines 31-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen in view of Rodriguez to incorporate attempting to logon to the message server using the user identification and password data as taught by Fortman. The motivation for the modification is to have doing so in order to retrieve a message from a secured message storage.

9. Claims 37-40, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlen (U.S. Patent No. 5,870,454) in view of Tullis et al. (U.S. Patent No. 5,802,314).

Regarding claim 37, Dahlen teaches receiving a message intended for the receiving party, the message including one or more message attachments (col.6, lines 5-32, 61-65, col.7, lines 10-25).

However, Dahlen does not specifically teach “determining whether one or more message attachments are convertible into a target format”. Tullis teaches determining whether one or more file attachments are convertible into a text (col.20, lines 30-45; ‘file attachments’ reads on

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the claim 'message attachments' and 'text' reads on the claim 'target format'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow determining whether one or more message attachments are convertible into a target format as taught by Tullis. The motivation for the modification is to have doing so in order to verify whether the message attachments are convertible.

Dahlen further fails to teach "generating a description of the one or more message attachments when the one or more message attachments are not convertible into the target format". Tullis teaches generating a description of the one or more file attachments when the one or more file attachments are not convertible into the text (col.20, lines 30-45; 'file attachments' reads on the claim 'message attachments' and 'text' reads on the claim 'target format'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dahlen to allow generating a description of the one or more message attachments when the one or more message attachments are not convertible into the target format as taught by Tullis. The motivation for the modification is to have doing so in order to deliver the description of unconvertible message.

Dahlen further teaches initiating a voice call to the receiving party at a predetermined date and time identified by the receiving party (col.7, line 45- col.8, line 29, lines 42-53, col.9, lines 61-67, col.10, lines 11-48).

Dahlen further teaches delivering the audible message to the subscriber during the phone call (col.8, lines 42-53, col.9, lines 61-67, col.10, lines 11-48).

However, Dahlen further fails to teach "the generated description". Tullis teaches the generated description (col.20, lines 40-45). Thus, it would have been obvious to one of ordinary

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skill in the art at the time the invention was made to modify Dahlen to incorporate the generated description as taught by Tullis. The motivation for the modification is to have doing so in order to deliver a status of unconvertible message.

Regarding claim 38, Dahlen teaches calling the interacting with a message server to obtain the message (col.10, lines 19-48).

Regarding claim 39 is rejected for the same reasons as discussed above with respect to claim 42.

Regarding claim 40, Dahlen teaches converting the message from a source format to an audible format (col.10, lines 1-17).

Regarding claim 48 is rejected for the same reasons as discussed above with respect to claim 37. Furthermore, Dahlen teaches the message including a message portion and one or more attachments in a source format (col.6, lines 5-32, col.10, lines 1-17).

Regarding claim 49, Dahlen teaches that the telephony device includes one of a wireline and wireless communication device (fig.1).

10. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlen (U.S. Patent No. 5,870,454) in view of Tullis et al. (U.S. Patent No. 5,802,314) and further in view of Rodriguez et al. (U.S. Pub. No. 2002/0067806).

Regarding claim 41 is rejected for the same reasons as discussed above with respect to claims 1.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Rhee (US 2002/0052218) teach Network-based system and method for supporting communications between a sender and a receiver upon requests of the receiver; and

Huna (US 6,944,273) teach Apparatus and method for future transmission of device-independent messages.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. E.

MD SHAFIUL ALAM ELAHEE
February 6, 2006



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